



Paper No. 9

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OFFICE OF PETITIONS

In re Reissue Application of
Sklar, et al.
Reissue Application No. 09/627,395
Filed: July 27, 2000
Original Patent No. 5,790,175
Issue Date: August 4, 1998
For: AIRCRAFT SATELLITE TELEVISION
SYSTEM FOR DISTRIBUTING TELEVISION
PROGRAMMING DERIVED FROM
DIRECT BROADCAST SATELLITES

ON PETITION

This is a decision on the petition entitled, "Petition Under 37 C.F.R. 1.47," filed October 31, 2003, which is being treated as a request under 37 CFR 1.183 to suspend 37 CFR 1.172 and 1.67 where they require execution of a supplemental reissue declaration by all of the inventors.¹

The petition under 37 CFR 1.47(a) is **dismissed as moot**.

The petition under 37 CFR 1.183 to suspend 37 CFR 1.172 and 1.67 is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.183 to waive 37 CFR 1.172 and 1.67" and must include an oath or declaration executed by inventor Frankenbach. **Failure to respond will result in abandonment of the application.**

Petitioner is urged to exercise more care when typing serial numbers. The instant petition, the petition for extension of time, and the Express Mail certificate, all filed on October 31, 2003, list the serial number as 09/627,394. The undersigned has corrected each serial number and placed the papers into the above-identified application file.

The original patent named Richard E. Sklar, Lawrence E. Girard, Ralph P. Phillipp, David C. Frankenbach, Dickey J. Berry, and Jim C. Williams as joint inventors. The parent reissue application papers were executed by a joint reissue declaration that was signed by all 6 inventors and filed on July 27, 2000. In view of the execution of the original reissue declaration by the joint inventors and the showing that diligent efforts were made to locate joint inventor Williams, under the extraordinary circumstances of this reissue application, justice would be served by suspending the regulations to the extent they require the execution of supplemental reissue declaration by joint inventor Williams.

¹ A reissue declaration must satisfy 37 CFR 1.175, and 37 CFR 1.63 (37 CFR 1.175(a); MPEP 1414), and be signed by the inventors. 37 CFR 1.172. When an inventor who executed an original declaration under 37 CFR 1.63 (as in the parent reissue application) refuses to execute a required supplemental declaration (as in the instant reissue application), the requirement may be waived under 37 CFR 1.183. See MPEP 1414.01.

Unfortunately, the declaration is not acceptable. The declaration contains noninitialed, nondated alteration to Inventor Frankenbach's information. 37 CFR 1.52(c) states that "[a]ny interlineation, erasure, cancellation or other alteration of the application papers filed should be made on or before the signing of the accompanying oath or declaration pursuant to 1.63...." This includes the oath or declaration. The Office will not consider whether noninitialed and or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration. See MPEP 605.04(a).


Fortunately, the deficiencies or inaccuracies relate to a signing inventor. Thus, pursuant to 37 CFR 1.67(a)(2), Mr. Frankenbach can correct his information on a supplemental declaration identifying the entire inventive entity but signed only by him.

Regarding finances, pursuant to petitioner's authorization, deposit account no. 18-1722 will be charged a \$130 fee for filing a petition under 37 CFR 1.183.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand until 12/01/03:	Crystal Plaza Four, Suite 3C23 2201 South Clark Place Arlington, VA 22202
By hand post 12/01/03:	Crystal Plaza 1 Lobby 2011 South Clark Place Room 1B03 Arlington, VA 22202
By Fax until 12/01/03:	(703) 308-6916 ATTN: Office of Petitions
By FAX post 12/01/03:	(703) 872-9306 ATTN: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (703) 308-6712.



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